

§ 1435.103 Availability, disbursement, and maturity of loans.

(a) Before obtaining a loan, a processor must:

(1) File a loan application, as CCC prescribes, no earlier than October 1 and no later than September 30 of the applicable crop year, with the State committee of the State where such processor is headquartered, or with a county committee designated by the State committee.

(2) Execute a note and security agreement, and storage agreement with CCC;

(3) Provide quantity and quality information as prescribed by CCC of the commodity to be pledged as collateral;

(4) Pay CCC a loan service fee, as determined by CCC, for the disbursement of each loan.

(5) If there are any liens or encumbrances on sugar or in-process sugar pledged as loan collateral, obtain waivers that fully protect CCC's interest even though the liens or encumbrances are satisfied from the loan proceeds. No additional liens or encumbrances shall be placed on the sugar after loan approval; and

(6) Agree to reimburse CCC for any costs incurred as a result of the failure of the processor to obtain the waivers specified in subparagraph (5).

(b) No loan proceeds may be disbursed until the sugar and in-process sugar have actually been produced and are otherwise established as being eligible to be pledged as loan collateral.

(c)(1) A processor may, within the loan availability period, repledge as collateral sugar that previously served as loan collateral for a repaid loan. In making application for such a loan, the processor shall:

(i) Specify that the loan collateral should be treated as a quantity of eligible sugar that previously served as loan collateral for a repaid loan; and

(ii) Designate the loan to which the reoffered loan collateral was originally pledged.

(2) The subsequent loan shall have the same maturity date as the original loan.

(3) Loan collateral repledged that was previously redeemed from CCC is not included in determining the total

quantity of sugar on which loans have been obtained for purposes of § 1435.102.

(d) Raw cane sugar loan disbursements shall be made without regard to the actual polarity or quality factors of the sugar pledged as loan collateral but shall be made on the assumption that the polarity of such sugar is 96 degrees by the polariscope.

(e)(1) Loans will mature at the earlier of:

(i) the end of the 9-month period beginning on the 1st day of the first month after the month in which the loan is made; or

(ii) September 30 following disbursement of the loan.

(2) CCC may accelerate loan maturity dates under § 1435.105(h).

(f) Processors receiving loans in July, August, or September may repledge the sugar as collateral for a supplemental loan. Such supplemental loan must:

(1) Be requested by the processor during the following October;

(2) Be made at the loan rate in effect at the time the first loan was made; and

(3) Mature in 9 months less the number of months that the first loan was in effect.

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§ 1435.104 Loan maintenance.

(a) All processors receiving loans shall:

(1) Abide by the terms and conditions of the loan application, note and security agreement and storage agreement;

(2) Pay interest on the principal at a rate determined in part 1405 of this chapter.

(b) The security interests CCC obtains as a result of the execution of security agreements by sugarcane and sugar beet processors shall be superior to all statutory and common law liens on raw cane sugar, refined beet sugar, and in-process sugar for the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived.

(c) A processor receiving a loan under this part shall pay all eligible producers who have delivered or will deliver sugar beets or sugarcane to such processors for processing not less than

the minimum payment levels CCC specifies for the applicable crop year.

(1) In the case of sugar beets, the minimum payment shall not exceed the rate of payment provided for under the applicable contract between a sugar beet producer and a sugar beet processor.

(2) In the case of sugarcane, CCC will annually determine and announce the annual grower minimum payment.

(3) Processors are ineligible for loans for the crop year following their failure to meet the required minimum grower payment.

(d)(1) A processor shall maintain eligible sugar or in-process sugar of sufficient quality and quantity as collateral to satisfy the processor's loan indebtedness to CCC. CCC shall not assume any loss in quantity or quality of the loan collateral.

(2) The processor is responsible for storage costs through the loan maturity date or title transfer to CCC, whichever occurs later.

(3) Sugar and in-process sugar pledged as loan collateral need not be stored identity preserved.

(4) When the proceeds of the sale of loan collateral are needed to repay all or part of a sugar loan, the processor may request and obtain prior written approval from the loan making office by executing a loan collateral release request, as prescribed by CCC, to remove a specified quantity of the loan collateral from storage for the purpose of delivering it to a buyer before loan repayment. Any such approval shall be subject to the terms and conditions set forth in the applicable form. The loan making office shall not approve such a request unless the buyer of the sugar agrees to pay CCC an amount necessary to satisfy the processor's loan indebtedness regarding collateral being sold. Any such approval shall not:

(i) Constitute a release of CCC's security interest in the loan collateral; or

(ii) Relieve the processor of liability for the full amount of the loan indebtedness, including interest.

[67 FR 54928, Aug. 26, 2002, as amended at 74 FR 15364, Apr. 6, 2009]

§ 1435.105 Loan settlement and foreclosure.

(a) A processor may, any time before loan maturity, redeem all or any part of the loan collateral by paying CCC the applicable principal and interest.

(b) Forfeiture of sugar loan collateral will be accepted as payment in full of the principal and interest due under a nonrecourse loan, subject to applicable premiums and discounts based on the difference between specifications reported on the sugar loan certification report and actual loadout characteristics.

(c)(1) Forfeiture of in-process sugar serving as loan collateral will be accepted as payment in full of principal and interest if the processor converts the in-process sugar into raw cane sugar or refined beet sugar of acceptable grade and quality for sugar eligible for loans within 1 month of loan maturity.

(2) The in-process sugar must be fully processed into raw cane sugar or refined beet sugar, before the processor shall transfer the sugar to CCC.

(3) On transfer of the sugar, CCC shall make a payment to the processor in an amount equal to the amount obtained by multiplying the difference between the loan rate for raw cane sugar or refined beet sugar, as appropriate, and the in-process loan rate the processor received by the quantity of sugar transferred to CCC. The loan agreement shall specify the quantity of sugar that can be forfeited to CCC.

(d) If the processor does not forfeit the collateral, but instead further processes the in-process sugar into raw cane sugar or refined beet sugar and repays the loan on the in-process sugar;

(1) the processor may obtain a loan for the raw cane sugar or refined beet sugar, as appropriate, and

(2) the term of a loan made under this subsection for a quantity of in-process sugar, when combined with the term of a loan made for the raw cane sugar or refined beet sugar derived from the in-process sugar, may not exceed 9 months.

(e) CCC shall not accept delivery of sugar in settlement of a nonrecourse loan in excess of the quantity of sugar that is shown on the note and security agreement minus any quantity that